

SUDAN PEACE ACT

JUNE 8, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HYDE, from the Committee on International Relations,
submitted the following

REPORT

[To accompany H.R. 2052]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 2052) to facilitate famine relief efforts and a comprehensive solution to the war in Sudan, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

TABLE OF CONTENTS

	Page
Background and Purpose	1
Committee Oversight Findings	5
New Budget Authority and Tax Expenditures	5
Congressional Budget Office Cost Estimate	5
Performance Goals and Objectives	7
Constitutional Authority Statement	7
Section-by-Section Analysis and Discussion	7
New Advisory Committees	10
Congressional Accountability Act	11
Federal Mandates	11

BACKGROUND AND PURPOSE

Sudan is suffering through the longest running civil war in the world. While the current stage of this conflict, being waged primarily between the National Islamic Front (NIF) or National Congress government and the Sudan People’s Liberation Movement/Army (SPLM/A), based in southern Sudan, has run since 1983, southern-based rebellion has surfaced in Sudan intermittently since 1955. The Sudan conflict has deep religious, cultural, regional, and economic roots.

This conflict has caused human suffering in Sudan on a massive scale. It is estimated that more than two million Sudanese have died of war-related causes since 1983. More than three million Sudanese are internally displaced, with two million living in squatter areas of Khartoum. More than three million Sudanese will require emergency food aid this year, according to the World Food Program. Famine is a constant. Society in southern Sudan has been disrupted on a massive scale. The current fighting has contributed to a situation whereby millions of Sudanese lack access to basic health and education services. Estimates of adult illiteracy run as high as 90 percent in southern Sudan.

Despite the fact that the most recent stage of the conflict has been flaring for twenty years, Sudan has gained greater prominence as a U.S. foreign policy concern in recent months. Many Members of Congress from both parties have taken a role in raising awareness of the magnitude of human suffering in Sudan. At a March 7, 2001 Committee hearing, U.S. Secretary of State Colin Powell suggested that Sudan is one of the greatest tragedies on the face of the earth. During his testimony, the Secretary made reference to the Administration's ongoing Sudan policy review. Secretary Powell recently traveled to Africa, where he consulted with African leaders about the crisis in Sudan. As of this writing, the Committee is awaiting the results of the Administration's Sudan policy review. Early signs indicate a strong Administration commitment to addressing the Sudan crisis.

H.R. 2052, the Sudan Peace Act, which enjoys broad bipartisan support, condemns violations of human rights by all sides to the conflict. It also recognizes that the Sudanese Government and groups under its control bear by far the greatest responsibility for human rights violations. The NIF regularly blocks humanitarian relief efforts and bombs humanitarian and civilian centers. Southern Sudanese are victimized by slave raids, which this legislation recognizes as government-backed, as well as religious persecution, which is commonly believed to be the world's worst. Last year, the State Department again designated Sudan as a Country of Particular Concern due to Sudan's systematic and egregious violations of religious freedom. Sudanese forced into slavery are subject to all forms of physical abuse, including beatings and sexual abuse, as well as forced religious conversions. The Committee believes that U.S. policy should work toward a cease-fire, followed by negotiations among the parties. This bill notes that a resolution of this conflict would be best made through a peace process based on the Declaration of Principles reached among the parties in Nairobi, Kenya in 1994.

A recent development which the Committee believes has the potential to alter fundamentally the Sudan conflict is the Government's exploitation of oil resources. Over the last several years, the China National Petroleum Company, Talisman Energy (Canada), Petronas (Malaysia), Lundin Oil (Sweden) and other non-U.S. companies have participated in developing oil fields, located primarily in southern Sudan. Currently producing some 200,000 barrels a day, Sudan has the potential to become a mid-size oil producer. Oil revenues—\$300–\$500 million per year—have allowed the NIF to double its military expenditures, giving it the means to prosecute the war more aggressively. H.R. 2052 notes that the Government

of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales to increase the tempo and lethality of the war against areas outside of its control. While the full effect of oil development is uncertain, the NIF's claim that its development of Sudan's energy resources strengthens its hand are credible.

These new oil revenues, and the NIF's efforts to displace Sudanese from oil production areas in the name of security (described by the U.K.-based Organization Christian Aid and others as "scorched earth operations"), have led to actions against oil companies operating in Sudan. These activities were profiled at a March 28, 2001 hearing held jointly by the Subcommittee on Africa and the Subcommittee on International Operations and Human Rights. A Petro China (China National Petroleum Company subsidiary) IPO offered in the U.S. last year was targeted for protest by grassroots organizations, resulting in the offering raising only a fraction of anticipated revenues. Talisman Energy has been the target of a disinvestment campaign. The Committee concurs with the growing sense in the U.S. and elsewhere that oil operations at this point are part of the problem, not the solution, in Sudan.

Congress has gone on record on several occasions over the last few years expressing concern over the strife and human suffering in Sudan. In 1999, the House of Representatives passed a resolution (H. Con. Res. 75) condemning the NIF for its "genocidal war in southern Sudan." The Sudan Peace Act condemns the Government of Sudan in the strongest possible terms, finding that its acts constitute genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide. Among other provisions, the Sudan Peace Act:

- Requires companies with operations in Sudan to disclose the nature of their Sudanese operations before they are permitted to trade securities in U.S. capital markets. This disclosure is to include the nature of those operations and their relationship to violations of religious freedom and other human rights in Sudan. This disclosure is intended to be a tool in alerting American investors, particularly those considering energy sector investments, to the nature of their potential investment. While this provision applies to all business entities, American companies and individuals are prohibited from operating in Sudan by sweeping sanctions President Clinton imposed in 1997. The Committee notes that the Securities and Exchange Commission is already moving to make disclosure statements more readily available to the investing public through electronic means. H.R. 2052's requirement that the SEC publish and otherwise make such disclosures public should include electronic dissemination.
- Urges the Administration to make available on behalf of the National Democratic Alliance \$10 million dollars in previously appropriated funds. This funding should be used to help build the civil society that has been devastated in the South, and which is essential to the region's long-term future. These funds cannot be used for the provision of lethal aid.
- Requires the Administration to develop a contingency plan to operate outside of Operation Lifeline Sudan (OLS) in the event the Government of Sudan imposes even a partial ban

on OLS air transport flights. OLS is a United Nations-sponsored humanitarian aid consortium that has been manipulated by the Government of Sudan (using its flight approval power) to advance its war aims, leading to widespread death by starvation and other causes. The U.S. is the largest financial supporter of OLS. Since 1989, it has spent more than \$1.2 billion on humanitarian relief efforts in Sudan, the bulk being funded through OLS. While the required preparation of an alternative approach does not itself constitute a rejection of OLS, it does express the Committee's concern and increasing impatience with the Sudanese government's ability to manipulate this consortium. It is for this reason that H.R. 2052 also expresses the sense that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan. Given the inherent shortcomings of OLS, including the price in principle the U.S. and others pay by acceding to the Government of Sudan's manipulation of relief supplies, it is prudent to develop a non-OLS contingency plan. In order to facilitate the President's ability to allocate resources quickly to where they will be most effective, H.R. 2052 removes the standard reprogramming limitations and congressional notification requirements for resources currently budgeted for Operation Lifeline Sudan.

- Directs the Secretary of State to collect information and report to Congress on incidents taking place in Sudan that may constitute war crimes. The Committee is concerned that the National Islamic Front Government and possibly other parties have engaged in heinous actions that may constitute war crimes, crimes against humanity, genocide, or other violations of international humanitarian law. There have been widespread allegations of organized, government-supported militias raiding civilian villages, slaughtering civilian males, enslaving children, and raping women. Likewise, official government forces have been involved in aerial bombardment of unarmed civilians and civilian targets, including hospitals, clinics, and schools. Though numerous non-official reports exist regarding these incidents, the Committee believes that the U.S. Government should provide an official and more detailed account of these actions.

The Committee expects that the Secretary will provide a detailed description of the following: (1) incidents of Government-supported militia slave raids, including the number of persons killed or kidnaped during the raid, the location of the raid, whether the raid fits into a pattern of removal of populations from certain geographic areas, and a general description of what happens to persons enslaved, particularly whether women and children are branded, gang raped, and forced to accept particular religious precepts; (2) incidents of aerial bombardment conducted by Sudanese Government or other forces against civilians and civilian targets, including how many people are killed or wounded in each incident, the location of each bombing, and an analysis of whether there is a pattern to such bombings (the Committee recognizes that some of this information may be contained in the report

required by section 9); and (3) forced conversions and torture in government-run “peace camps,” where food is used as a method of coercion. Although the Secretary of State has discretion in determining how to administer the collection of this information, the Committee believes that the Ambassador-at-Large for War Crimes Issues and the Ambassador’s office should be closely involved.

The Committee recognizes that without a resolution to the underlying conflict, human suffering in Sudan will continue to mount. The Committee is under no illusions that the Sudan crisis is easily resolvable. The development of oil may very well be a complicating factor in forging peace, as it is with other African conflicts. What the Committee does expect is a determined and sustained Administration effort at achieving a just peace in Sudan. A successful diplomatic effort will require forging a common multilateral approach toward Sudan, which the SPA encourages. The Administration will be forced to cope with the NIF, which is complicated by it being officially classified as a state sponsor of terrorism. The SPA is intended to bolster Administration efforts by bringing attention to Sudan, addressing shortcomings in the delivery of humanitarian relief, and providing tools to the Administration, and the American public, to attempt to end the massive suffering of the Sudanese people.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2052, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 7, 2001.

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2052, the Sudan Peace Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Joseph C. Whitehill (for federal costs), who can be reached at 226–2840, and Paige Piper/Bach (for the private-sector impact), who can be reached at 226–2940.

Sincerely,

DAN L. CRIPPEN, *Director*.

Enclosure

cc: Honorable Tom Lantos
Ranking Democratic Member

H.R. 2052—Sudan Peace Act.

H.R. 2052 would condemn slavery and human rights abuses in Sudan, require disclosure statements from any entity engaged in commercial activity in Sudan, authorize the Secretary of State to support the peace process in Sudan, and require the President to devise a contingency plan for delivering aid to Sudan. CBO estimates that enacting H.R. 2052 would have no significant budgetary impact. The act would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

Each year the United States provides nearly \$190 million in assistance to the people of Sudan through various emergency food-aid, disaster assistance, refugee assistance, and development assistance programs. The provisions of H.R. 2052 would not substantially expand the Administration's authority to provide such assistance. CBO estimates that spending on those emergency and humanitarian programs would continue at current levels.

The bill contains several reporting and contingency planning requirements that would not affect the State Department's workload significantly. Based on information from the department, CBO estimates that enacting H.R. 2052 would increase the agency's spending by less than \$500,000 annually, assuming the availability of appropriated funds.

H.R. 2052 would impose a private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA) on entities engaged in commercial activities in Sudan. The bill would require disclosure of business activities in Sudan prior to an entity trading its securities in any capital market in the United States. Currently, under the President's Executive Order (E.O. 13067), trade with Sudan is prohibited except for importation of gum arabic in raw form. According to government sources, the number of companies affected by the bill would be limited. Further, the cost to disclose information about business activities in Sudan to the Securities and Exchange Commission would be minimal. CBO estimates, therefore, that the direct cost of the mandate would fall below the annual threshold established by UMRA for private-sector mandates (\$113 million in 2001, adjusted annually for inflation).

H.R. 2052 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for federal costs is Joseph C. Whitehill, who can be reached at 226–2840. The CBO staff contact for private-sector mandates is Paige Piper/Bach, who can be reached at

226–2940. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of this legislation are to encourage an end to the war in Sudan and improve international capabilities to provide humanitarian assistance there.

CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the authority for this legislation in Article I, section 8, clause 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

To Facilitate Famine Relief Efforts and A Comprehensive Solution to the War in Sudan

Section 1—Short Title

Section 1 cites the act as the “Sudan Peace Act.”

Section 2—Findings.

Section 2 makes 16 findings concerning human rights, humanitarian relief efforts, and the role of the U.S. in ending the conflict abuses in Sudan:

Paragraph (1)—The Government of Sudan has intensified its attack on areas it does not control, which has caused 2,000,000 deaths and has displaced over 4,000,000 people.

Paragraph (2)—A permanent resolution to the war must protect human rights, make Sudan a self-sustaining nation, result from a viable, comprehensive, and internationally sponsored peace process that is immune to manipulation.

Paragraph (3)—Continued reform in the humanitarian relief operations is an essential element in the effort to bring an end to the war.

Paragraph (4)—It is vital that United States continue its leadership.

Paragraph (5)—Without legitimate civil authority and supporting institutions, the Sudanese people can not sustain themselves, nor can they establish a lasting peace.

Paragraph (6)—By manipulating traditional tribal feuds to divide groups in the Southern areas outside its reach, the Sudanese government has managed to conquer those populations. Internationally sponsored reconciliation efforts provide an effective check against these divide-and-conquer tactics, which have inflicted much suffering.

Paragraph (7)—Sudan employs militias, Popular Defense Forces, and other irregular units to raid and enslave opposing parties which are beyond the reach of the Government. Such tactics aim to insulate Sudan from international culpability.

Paragraph (8)—Sudan has expressed a strong intention to channel proceeds from future oil sales into its military campaign.

Paragraph (9)—Sudan has systematically banned air transport relief flights to transform humanitarian relief efforts into a weapon against targeted groups. This orchestrated starvation tactic is

meant to force opposition groups to capitulate areas outside Sudanese government control.

Paragraph (10)—The Government of Sudan has committed acts of genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide.

Paragraph (11)—United States and other donors have played a significant role in addressing deficiencies in Operation Lifeline Sudan (OLS).

Paragraph (12)—The pressing needs of select areas facing starvation have been addressed for now, but those outside the control of the Sudanese government remain in danger of extreme disruption of their ability to sustain themselves.

Paragraph (13)—Peoples in the areas of the Nuba Mountains, Bahr al Ghazal, and the Upper Nile have been excluded completely from OLS distributions.

Paragraph (14)—Current international relief efforts which have exceeded \$1 million per day, focus on immediate food needs and are neither sustainable nor desirable.

Paragraph (15)—Sudan's neighboring states of Ethiopia, Eritrea, and Uganda have not intervened in the conflict. This has hampered the ability of populations to defend themselves against attack from Sudanese government rebels.

Paragraph (16)—The United States should use necessary pressure to exact a holistic conclusion to the war in Sudan that includes:

- (A) multilateral economic and diplomatic tools;
- (B) the facilitation or creation of viable, democratic, civil authority in autonomous regions beyond Sudanese government control;
- (C) people-to-people reconciliation mechanisms;
- (D) improved delivery systems for humanitarian relief; and
- (E) international cooperation among United States and its trading partners towards those ends.

Section 3—Definitions.

Paragraph (1)—The Committee on International Relations in the House of Representatives and the Committee on Foreign Relations of the Senate are the appropriate congressional committees.

Paragraph (2)—The Government of Sudan is the National Islamic Front government in Khartoum, Sudan.

Paragraph (3)—OLS is the United Nations relief operation executed by UNICEF, the World Food Program, and participating relief organizations known as "Operation Lifeline Sudan."

Section 4—Condemnation of Slavery, Other Human Rights Abuses, and Tactics of the Government of Sudan.

Section 4 specifically condemns:

Paragraph (1)(A)—Violations of human rights by all sides of the conflict;

Paragraph (1)(B)—The overall human rights record of the Government of Sudan;

Paragraph (1)(C)—The continuing slave trade, as tolerated and abetted by the government in Sudan;

Paragraph (1)(D)—Government of Sudan sponsored invasions and enslavements in Bahr al Ghazal, the Nuba Mountains, and the Upper Nile and Blue Nile regions; and

Paragraph (1)(E)—Aerial bombardment of civilian targets by the Government of Sudan.

Paragraph (2)—This section also acknowledges that acts, such as raiding and enslaving people, are used by the Government of Sudan as tools for creating food shortages

Section 5—Use of Appropriated Funds.

Section 5 urges the President to expend promptly on behalf of the anti-government National Democratic Alliance coalition the \$10 million in Economic Support Funds appropriated for fiscal year 2001.

Section 6—Support for An Internationally Sanctioned Peace Process.

Subsection (a)(1)—Finds that the greatest hope for a negotiated, peaceful settlement to the war in Sudan depends on a single, viable, internationally and regionally sanctioned peace process.

Subsection (a)(2)—Finds that the resolution of the conflict should be based on the 1994 Declaration of Principles, reached in Nairobi, Kenya.

Subsection (b)(1–3)—This section authorizes the Secretary of State to support with personnel and other resources the negotiations between the Government of Sudan and opposition forces as well as the implementation of any future peace settlement.

Section 7—Multilateral Pressure on Combatants.

Paragraphs (1–2)—This section encourages the President to urge the United Nations to review and revise the terms of Operation Lifeline Sudan for delivering humanitarian assistance to end the veto power of the Government of Sudan over OLS flights, to investigate the practice of slavery, and to sponsor a UN condemnation of the Government of Sudan when it subjects civilians to aerial bombardment.

Section 8—Disclosure of Business Activities in Sudan.

Subsection (a)—This section outlines which activities businesses operating in Sudan must disclose. It prohibits any entity engaged in any commercial activity in Sudan from trading any of its securities (or depositary receipts with respect to its securities) in any capital market in the United States unless it has disclosed, in such form as the Securities and Exchange Commission (SEC) shall prescribe—

Subsection (a)(1)—the nature and extent of that commercial activity in Sudan including plans for expansion or diversification;

Subsection (a)(2)—all Sudanese government agencies with which it is doing business;

Subsection (a)(3)—the relationship of the commercial activity to violations of human rights or religious freedom; and

Subsection (a)(4)—the contribution of proceeds raised in U.S. capital markets will make to the commercial activity in Sudan.

Subsection (b)—directs the SEC to ensure that disclosures are made available to the public.

Subsection (c)—authorizes the President to exercise his authorities under the International Emergency Economic Powers Act to assist the SEC to carry out these duties.

Section 9—Reporting Requirement.

Section 9 directs the Secretary of State to prepare a detailed report regarding the conflict in Sudan and submit this report to the appropriate Committees of Congress within 6 months after the enactment of this act and annually thereafter. The reports must include:

Paragraph (1)—Sudan’s financial resources for infrastructure and oil exploration;

Paragraph (2)—the extent to which United States funding and involvement by American citizens contributed to these resources;

Paragraph (3)—estimates on the extent of aerial bombardment; and

Paragraph (4)—extent of obstruction or manipulation by the Government of Sudan in humanitarian relief operations.

Section 10—Continued Use of Non-OLS Organizations for Relief Efforts.

Subsection (a)—Congress encourages the use of humanitarian aid agencies that are not part of the Operation Lifeline Sudan framework.

Subsection (b)—The President is required to submit a report to the appropriate congressional committees within 90 days after this act takes effect.

Section 11—Contingency Plan for Any Ban on Air Transport Relief Flights.

Subsection (a)—This section generally directs the President to develop a contingency plan for relief delivery if the Government of Sudan imposes a total, partial or incremental ban on OLS relief transport.

Subsection (b)—This gives President the authority, notwithstanding any other provision of law, to reprogram as much as 100 percent of available OLS funds to carry out the plan, if necessary.

Section 12—Investigation of War Crimes.

Subsection (a)—This section directs the Secretary of State to collect information and report to Congress about incidents which may constitute war crimes in Sudan.

Subsection (b)—The Secretary of State shall submit any findings and determinations to the appropriate congressional committees within 6 months after this act passes, and annually thereafter.

Subsection (c)—In gathering information and preparing the report, the Secretary of State must consult with relevant agencies.

NEW ADVISORY COMMITTEES

H.R. 2052 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 2052 does not apply to the legislative branch.

FEDERAL MANDATES

H.R. 2052 provides no Federal mandates.

